

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

November 17, 2009

Charles R. Fulbruge III
Clerk

No. 09-50012
Summary Calendar

DAVID RAMOS

Plaintiff-Appellant

v.

DR PAUL W. SHRODE; INVESTIGATOR REX PARSONS; INVESTIGATOR
JAVIER SOSA; TECHNICIAN SAL TELLES; UNKNOWN STAFF

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:08-CV-418

Before KING, STEWART, and HAYNES, Circuit Judges.

PER CURIAM:*

David Ramos, El Paso County Detention Facility inmate # 9291422, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint for failure to state a claim. *See* 28 U.S.C. § 1915(e)(2)(B)(ii). The district court dismissed Ramos's complaint pursuant to the abstention doctrine of *Younger v. Harris*, 401 U.S. 37 (1971). Although Ramos argues the merits of his claims on appeal, he wholly fails to challenge the district court's reason for dismissal. By failing to

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

brief any argument challenging the district court's reason for dismissal, Ramos has abandoned the only ground for appeal. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993); *Brinkmann v. Dallas County Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Ramos's appeal is without arguable merit and therefore frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Because it is frivolous, it is dismissed. *See* 5TH CIR. R. 42.2. Ramos's motion for the appointment of counsel is denied.

The district court's dismissal of the complaint and this court's dismissal of the appeal count as strikes for purposes of § 1915(g). *See Adepegba v. Hammons*, 103 F.3d 383, 387-88 (5th Cir. 1996). Ramos has at least one previous strike. *Ramos v. Samaniego*, No. EP-07-CA-320-FM, 2008 WL 3539252 at *1 (W.D. Tex. Jul. 24, 2008) (unpublished). Because he has accumulated three strikes, Ramos is now barred from proceeding IFP in any civil action or appeal filed while he is incarcerated or detained in any facility unless he "is under imminent danger of serious physical injury." § 1915(g).

APPEAL DISMISSED; 28 U.S.C. § 1915(g) BAR IMPOSED; MOTION DENIED.